

(Previously Filed Under Seal at ECF No. 8317)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001	03 MDL 1570 (GBD) (SN) ECF Case
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This document relates to:

Federal Insurance Co., et al. v. Al Qaida, et al., 03-cv-06978

Thomas E. Burnett, Sr., et al. v. Al Baraka Inv. & Dev. Corp., et al., 03-cv-09849

Estate of John P. O'Neill, Sr., et al. v. Al Baraka Inv. & Dev. Corp., et al., 04-cv-01923

Continental Casualty Co., et al. v. Al Qaeda, et al., 04-cv-05970

Cantor Fitzgerald & Co., et al. v. Akida Bank Private Ltd., et al., 04-cv-07065

Euro Brokers Inc., et al. v. Al Baraka Inv. & Dev. Corp., et al., 04-cv-07279

**AFFIRMATION OF J. SCOTT TARBUTTON TRANSMITTING DOCUMENTS IN
SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANT DUBAI ISLAMIC
BANK'S MOTION FOR SUMMARY JUDGMENT AND
RENEWED MOTION FOR DISMISSAL**

I, J. Scott Tarbutton affirm, under penalty of perjury, as follows:

1. I am an attorney admitted to practice *pro hac vice* in the above-captioned matter,

and a member of the law firm Cozen O'Connor. I submit this Affirmation to transmit to the

Court the following documents submitted in support of Plaintiffs' Memorandum of Law in

Opposition to Defendant Dubai Islamic Bank's Motion for Summary Judgment and Renewed

Motion for Dismissal, and Plaintiffs' Response to Defendant Dubai Islamic Bank's Rule 56.1

Statement of Material Facts.

2. Attached hereto as Exhibit 1 is a true and correct copy of Plaintiffs' Averment of Facts and Counterstatement of Facts Pursuant to Rule 56.1.

3. Attached hereto as Exhibit 2 is a true and correct copy of Executive Order 14040 of September 3, 2021, *Declassification Reviews of Certain Documents Concerning the Terrorist Attacks of September 11, 2001*, 86 Fed. Reg. 50439172 (September 9, 2021).

4. Attached hereto as Exhibit 3 is a true and correct copy of the March 29, 2022 email from Sarah S. Normand, Deputy Chief, Civil Division, United States Attorney's Office, transmitting the CIA production pursuant to Section 2(b) of Executive Order 14040.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Supplementary Expert Report of Jonathan M. Winer (June 16, 2022), and July 29, 2022 Declaration of Jonathan Winer.

6. Attached hereto as Exhibit 5 is a true and correct copy of CIA_000002-16, *How Bin Laden Commands a Global Terrorist Network* (January 27, 1999).

7. Attached hereto as Exhibit 6 is a true and correct copy of CIA_000018-36, *Bin Laden's Terrorist Operations: Meticulous and Adaptable* (November 2, 2000).

8. Attached hereto as Exhibit 7 is a true and correct copy of CIA_000038-52, *Al-Qa'ida in Sudan, 1992-96: Old School Ties Lead Down Dangerous Paths* (March 10, 2003).

9. Attached hereto as Exhibit 8 is a true and correct copy of CIA_000064-141, *DCI Report: The Rise of UBL and Al-Qa'ida and the Intelligence Community Response* (March 19, 2004).

10. Attached hereto as Exhibit 9 is a true and correct copy of CIA_000317-338, *Usama Bin Laden's Finances: Some Estimates of Wealth, Income, and Expenditures* (November 17, 1998).

11. Attached hereto as Exhibit 10 is a true and correct copy of CIA_000421-428, *Terrorism: Companies Linked to Usama Bin Laden* (January 3, 1997).

12. Attached hereto as Exhibit 11 is a true and correct copy of CIA_000500-563, *Usama Bin Laden: Al Qa'ida's Financial Facilitators* (October 18, 2001).

13. Attached hereto as Exhibit 12 is a true and correct copy of CIA_000721-804, *Intelligence Report, Office of Transnational Issues, Funding Islamic Extremist Movements: The Role of Islamic Financial Institutions* (undated).

14. Attached hereto as Exhibit 13 is a true and correct copy of the Summary of Evidence for Combatant Status Review Tribunal – Al Baluchi, Ammar (Mary 28, 2007), ECF No 2973-16 (PEC_DIB000836-838).

15. Attached hereto as Exhibit 14 is a true and correct copy of the FBI 302 for Cooperating Witness Jamal al Fadl (FED-PEC0202133-202146).

16. Attached hereto as Exhibit 15 is a true and correct copy of the Indictment, *U.S. v. Usama bin Laden*, Case No. 98-cr-1023 (FED-PEC0003739-3895).

17. Attached hereto as Exhibit 16 is a true and correct copy of U.S. Department of State, Bureau of Intelligence and Research, *Intelligence Assessment, Terrorism: Bin Ladin's Network*, (January 22, 1996) (PEC-FOIA047957-47958).

18. Attached hereto as Exhibit 17 is a true and correct copy of DIB_003540-3541, 3519 (1993 annual account statements for Saidi Madani al Tayyib's DIB Account No. xx-xxxxxx-520-1), with certified English translations.

19. Attached hereto as Exhibit 18 is a true and correct copy of DIB_003518, 3543-3544 (1994 annual account statements for Saidi Madani al Tayyib's DIB Account No. xx-xxxxxx-520-1), with certified English translations.

20. Attached hereto as Exhibit 19 is a true and correct copy of DIB_003545-3548 (1993-1995 annual account statements for Saidi Madani al Tayyib's DIB Account No. xx-xxxx543-2), with certified English translations.

21. Attached hereto as Exhibit 20 is a true and correct copy of Stephen Braun,
Emirates Looked Other Way While Al Qaeda Funds Flowed, Los Angeles Times, January 20,
2002 (FED-PEC0212914-212919).

22. Attached hereto as Exhibit 21 is a true and correct copy of Exhibit 14, August 1-3, 2017 Deposition of Dr. Hussein Hamid Hassan, Stephen Braun, *Response to Terror*, Los Angeles Times, January 20, 2002 (PEC-DIB001015-1026).

23. Attached hereto as Exhibit 22 is a true and correct copy of James Risen and Benjamin Weiser, *U.S. Officials Say Aid for Terrorists Came Through Two Persian Gulf Nations*, New York Times, July 8, 1999 (PEC-DIB000813-815).

24. Attached hereto as Exhibit 23 is a true and correct copy of the transcript for the October 4, 2019 deposition of Judge Alan Fine.

25. Attached hereto as Exhibit 24 is a true and correct copy of Exhibit 270, October 4, 2019 Deposition of Judge Alan Fine, July 8, 1999 State Department Briefing (PEC-DIB000803-812).

26. Attached hereto as Exhibit 25 is a true and correct copy of Plaintiffs' Second Supplemental Responses to Defendant Dubai Islamic Bank's Second Set of Requests for Admission (April 23, 2022).

27. Attached hereto as Exhibit 26 is a true and correct copy of Plaintiffs' Supplemental Responses and Objections to Defendant Dubai Islamic Bank's Third Set of Requests for Admission (April 23, 2022).

28. Attached hereto as Exhibit 27 is a true and correct copy of the Indictment, *U.S. v Khalid Sheikh Mohammed, et al.*, Case No. (S14) 93 Cr. 180 (KTD) (S.D.N.Y.), April 4, 2011 (FED-PEC0213342-213422).

29. Attached hereto as Exhibit 28 is a true and correct copy of KADI0030668-30678 (ECF No 2973-7).

30. Attached hereto as Exhibit 29 is a true and correct copy of Josh Meyer and Sebastian Rotella, *U.S. Coalition Freezes Assets in Terror War*, Los Angeles Times, November 8, 2001, ECF No. 2973-12.

31. Attached hereto as Exhibit 30 is a true and correct copy of U.S. State Department Diplomatic Cable, *Terrorist Finance: Post-Vetting of Human Appeal International*, February 13, 2007 (FED-PEC 220501-220502).

32. Attached hereto as Exhibit 31 is a true and correct copy of Plea Agreement and Stipulation of Facts, *U.S. v. Ali Saleh Kahlah Al-Marri*, Case No. 09-CR-10030 (ECF No 2973-11).

33. Attached hereto as Exhibit 32 is a true and correct copy of the transcript for the August 1, 2017 deposition of Dr. Hussein Hamid Hassan.

34. Attached hereto as Exhibit 33 is a true and correct copy of the transcript for the August 3, 2017 deposition of Dr. Hussein Hamid Hassan.

35. Attached hereto as Exhibit 34 is a true and correct copy of Dr. Ali Muhyiddin al Qaradaghi, *Is it Permissible to Send Money to Hamas at This Time*, February 21, 2010.

36. Attached hereto as Exhibit 35 is a true and correct copy of Dr. Ajeel Jaseem Nashmi, *Martyrdom Operations*, December 9, 2005.

37. Attached hereto as Exhibit 36 is a true and correct copy of Dr. Ajeel Jaseem Nashmi, *Paying Zakat to Those Who Work to Restore the Shar'a of Allah*.

38. Attached hereto as Exhibit 37 is a true and correct copy of the March 10, 2020 Expert Report of Jonathan M. Winer.

39. Attached hereto as Exhibit 38 is a true and correct copy of Exhibit 15, August 1-3, 2017 Deposition of Dr. Hussein Hamid Hassan, *Defense of the Muslim Lands, The First Obligation After Imam, Dr. Abdullah Azzam.*

40. Attached hereto as Exhibit 39 is a true and correct copy of Exhibit 17, August 1-3, 2017 Deposition of Dr. Hussein Hamid Hassan, *Study of the Rules of Contact between Muslims and Non-Muslims in Time of War*, presented to the Conference, *International Relations Between Islam and The Current Civilization*, held by the Muslim World League in Mecca, Saudi Arabia, May 13-22, 2002, prepared by Hussain Hamid Hassan, PhD.

41. Attached hereto as Exhibit 40 is a true and correct copy of Exhibit 271, October 4, 2019 Deposition of Judge Alan Fine.

42. Attached hereto as Exhibit 41 is a true and correct copy of NATO Parliamentary Assembly, *The Economic Consequences of September 11, 2001 and the Economic Dimension of Anti-Terrorism*, ECF No. 2973-1 (FED-PEC0213608-213618).

Executed in Philadelphia, Pennsylvania on August 3, 2022.



J. Scott Tarbutton, Esq.